

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:09-CR-37-BO
AND
EASTERN DIVISION
4:09-CR-38-BO

FILED

NOV 01 2013

JULIE A. RICHARDS, CLERK
US DISTRICT COURT, EDNC
BY AS DEP CLK

UNITED STATES OF AMERICA)

v.)

DAVID LEE COX)

ORDER


This cause comes before the Court on defendant's motion for transcripts [DE 101 & 41]. Mr. Cox states that he is pursuing post-conviction remedy under 28 U.S.C. § 2255 and asks that the Court provide him with all hearing transcripts.

The circumstances under which the court may provide an indigent criminal defendant a copy of his transcript at the court's expense are addressed by 28 U.S.C. § 753(f). Specifically, section 753(f) states that a free transcript shall be provided to an indigent criminal defendant to bring an action pursuant to 28 U.S.C. § 2255 "if the trial judge...certifies that the suit...is not frivolous and that the transcript is needed to decide the issue presented by the suit. . . ." 28 U.S.C. § 753 (f); *see also United States v. MacCollom*, 426 U.S. 317, 326 (1976). Additionally, an indigent defendant must make a showing of a particularized need to obtain a free transcript. *See United States v. Hill*, 34 F. App'x 942, 943 (4th Cir. 2002). An indigent defendant may not obtain a free transcript "merely to comb the record in the hope of discovering some flaw." *United States v. Glass*, 317 F.2d 200, 202 (4th Cir. 1963).

In this case, Mr. Cox's motion does not state any particularized need for the requested

transcripts. Moreover, the government asserts that transcripts have already been prepared and furnished to Mr. Cox at the government's expense while these matters were on direct appeal. Based upon the foregoing, Mr. Cox does not meet the requirements for a free transcript under section 753(f). Mr. Cox's motion for transcript is therefore DENIED.

SO ORDERED, this the 1 day of ^{November}~~October~~, 2013.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE